

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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ISSAM HAMID ALI BIN ALI AL JAYFI, *et al.*,

Petitioners/Plaintiffs,

v.

GEORGE W. BUSH, *et. al.*,

Respondents/Defendants.

Case No. 1:05-CV-02104 (RBW)

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ABDUL HALEEM

Petitioner/Plaintiff,

v.

GEORGE W. BUSH, President of the United States,  
et al.

Respondents/Defendants.

Case No. 05-2376(RBW)

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ABDUL-HADI MUHAMMAD AL SIBA'I, by and  
through his next friend, ABDULLAH MUHAMMAD  
AL-SIBA'I,

Petitioners,

v.

GEORGE W. BUSH, DONALD RUMSFELD,  
ARMY BRIG. GEN. JAY HOOD, and ARMY COL.  
MIKE BUMGARNER,

Respondents.

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Case No. 1:05-CV-01667 (RBW)

**ELHAM BATTAYAV,**

**Petitioner/Plaintiff,**

V.

GEORGE W. BUSH, *et. al.*,

### Respondents/Defendants.

**Case No. 05-CV-00714 (RBW)**

AL MURBATI, *et al.*,

**Petitioners/Plaintiffs,**

V.

GEORGE W. BUSH, *et. al.*,

### Respondents/Defendants.

Case No. 04-CV-1227 (RBW)

NASRULLAH,

**Petitioner/Plaintiff,**

v.

GEORGE W. BUSH, *et. al.*,

### Respondents/Defendants.

Case No. 1:05-CV-00891 (RBW)

<hr/>	)	
MOHAMMED AMON,	)	
	)	
Petitioner/Plaintiff,	)	
	)	Case No. 05-CV-1493 (RBW)
v.	)	
	)	
GEORGE W. BUSH, <i>et. al.</i> ,	)	
	)	
	)	
Respondents/Defendants.	)	
<hr/>	)	
TAJ MOHAMMAD,	)	
	)	
Petitioner/Plaintiff,	)	
	)	Case No. 05-CV-0879 (RBW)
v.	)	
	)	
GEORGE W. BUSH, <i>et. al.</i> ,	)	
	)	
	)	
Respondents/Defendants.	)	
<hr/>	)	
KARIN BOSTAN,	)	
	)	
Petitioner/Plaintiff,	)	
	)	Case No. 05-CV-883 (RBW)
v.	)	
	)	
GEORGE W. BUSH, <i>et. al.</i> ,	)	
	)	
	)	
Respondents/Defendants.	)	
<hr/>	)	
AMEEN MOHAMMAD ALBKRI, <i>et al.</i> ,	)	
	)	
Petitioners/Plaintiffs,	)	
	)	Case No. 05-CV-1639 (RBW)
v.	)	
	)	
GEORGE W. BUSH, <i>et. al.</i> ,	)	
	)	
	)	
Respondents/Defendants.	)	
<hr/>	)	

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**GHREBI,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**ASIM BEN THABIT AL-KHALAQI,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**KHANDAN**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**JAMOLIVICH,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 04-CV-1164 (RBW)**

**Case No. 05-CV-999 (RBW)**

**Case No. 05-CV-1697 (RBW)**

**Case No. 05-CV-2112 (RBW)**

**PETITIONERS' CONSOLIDATED MOTION TO VACATE  
JANUARY 4, 2006 ORDERS TO SHOW CAUSE**

Petitioners in all Guantánamo detainee cases pending in this Court respectfully submit this Consolidated Motion to Vacate This Court's January 4, 2006 Orders To Show Cause.

On January 4, 2006, this Court issued Orders in each of the above-captioned actions requiring Petitioners to "show cause by January 12, 2006, why this action should not be dismissed for lack of jurisdiction," in light of the enactment of H.R. 2863, the Department of Defense Appropriations Act of 2006 (the "Act"), which, in relevant part, purports to amend the federal habeas statute with respect to individuals detained in Guantánamo Bay, Cuba.<sup>1</sup> On the same day, the D.C. Circuit Court of Appeals, which has *sub judice* the cross-appeals of Judge Green's and Judge Leon's decisions on Respondents' October 4, 2004 motion to dismiss all then-pending Guantánamo detainee cases, issued an Order requiring supplemental briefing by January 18, 2006 on essentially the same legal question -- the Act's effect, if any, on its jurisdiction over those Guantánamo detainee cases. *See e.g.* January 4 Order *Boumediene v. Bush*, No. 05-5062 (January 4, 2006).<sup>2</sup> Moreover, this same legal issue is being presented to the United States Supreme Court this week. Several briefs have been filed (or will be by the end of today) with the Supreme Court addressing what effect, if any, the Act has upon the Court's jurisdiction in *Hamdan v. Rumsfeld*, No. 05-184, and we understand that the parties will address

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<sup>1</sup> In its Order, this Court cited Section 1005(e) of "H.R. 2863, the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act of 2006," which is the title of Division B of H.R. 2863. However, Section 1005(e) is located in Division A of H.R. 2863, as titled above.

<sup>2</sup> A copy of this Order is attached hereto as Exhibit A.

this jurisdiction question in their briefing as well.<sup>3</sup> Finally, also on January 4, 2006, Respondents filed a Notice of Supplemental Authority in all of the Guantánamo detainee cases, which stated that Respondents will shortly file “motion(s) to dismiss or for other appropriate relief,” in all cases pending in this District, based upon the Act’s purported effect on the District Court’s jurisdiction.

Because the precise legal issue raised in the Court’s Show Cause Orders is being addressed to the Supreme Court in briefs this week, and shortly will be taken up by the Court of Appeals, Petitioners respectfully submit that this Court should defer consideration of the effect of the Act, if any, on these detainee cases until an appellate decision on this issue is rendered. Accordingly, Petitioners ask that the Court vacate the Show Cause Orders.

*First*, there is good reason to expect that the Supreme Court will resolve this issue in *Hamdan*. As a predicate to reaching decision in that case, the Court is likely to determine whether the Act eliminates federal court jurisdiction over habeas petitions by Guantánamo Bay detainees such as Mr. Hamdan. For these reasons, as noted above, two *amicus* briefs are being submitted today addressing the jurisdictional effect of the Act, and we anticipate that the parties’ briefing will address this issue as well. We respectfully submit that that the most efficient course for this and other Courts in this District would be to await decision by the Supreme Court on the Act’s impact on their jurisdiction, if any.

*Second*, independent of the Supreme Court’s consideration of the Act in *Hamdan*, the D.C. Circuit ordered that supplemental briefing be submitted on this issue (*See, e.g., Boumediene*

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<sup>3</sup> The briefs addressing this question are: the *Amicus Curiae* brief of More Than 200 Detainees Incarcerated At U.S. Naval Station, Guantánamo Bay, Cuba, And Their Family Members, In Support of Petitioner and In Support of Jurisdiction and the *Amicus Curiae* brief for The Center For National Security Studies And The Constitution Project Supporting Petitioner.

*v. Bush*, No. 05-5062 (Order, January 4, 2006)) in connection with the *Boumediene/In re Guantánamo Detainees* appeals.<sup>4</sup> In turn, counsel in several of the above-captioned cases will submit briefing on the jurisdictional impact of the Act to the Court of Appeals on January 18, 2006.<sup>5</sup> The Appellate Court has specifically indicated that it will take up this precise legal issue when it decides those appeals, which have been pending since September 2005. We therefore can expect a decision from that Court in a reasonable timeframe that will resolve the Act's jurisdictional effect on these detainee cases. Again, the most efficient and appropriate course would be for the Court to defer decision on this issue, pending appellate resolution.<sup>6</sup>

*Third*, if the Court nonetheless determines that district court review of the Act's effect prior to appellate decision is appropriate, Petitioners respectfully request that the Court vacate or, at a minimum, modify, the Show Cause Orders, in light of Respondents' January 4 Notice of intent to file a motion to dismiss in all Guantánamo detainee cases. Petitioners submit that the most efficient means for this and other Courts of this District to address the effect of the Act, if any, on jurisdiction over Guantánamo detainee cases (apart from awaiting appellate decision) is to do so in response to Respondents' motion to dismiss. This will eliminate duplicative briefing on this issue by both Petitioners and Respondents, who can negotiate and present to the Court a reasonable schedule for briefing on the expected motion.

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<sup>4</sup> The Appellate Court's Order was following Respondents' letter submitted to the Court pursuant to Rule 28(j) of the Federal Rules of Appellate Procedure, which is attached hereto as Exhibit B.

<sup>5</sup> See *Gherebi v. Bush*, 04-CV-01164; *Almurbati v. Bush*, 05-CV-01227.

<sup>6</sup> In *Khadr v. Bush*, currently before Judge Bates, the parties jointly moved to vacate the Court's Order for briefing on this jurisdictional issue in light of both the Court of Appeals' Order and Respondents' stated intention to file a dispositive motion. *Khadr v. Bush*, No. 04-CV-01136 (Docket No. 150). Today, Judge Bates issued a Minute Order granting this motion, vacating his previous Order. *Id.* (Order on Motion to Vacate, January 6, 2006).

Petitioners' counsel have conferred with Respondents, and Respondents have indicated that they do not oppose either a reasonable extension of the briefing deadlines contained in the Court's recent Show Cause Orders, or proceeding with respect to the issue as Respondents proposed in their recently filed Notice of Supplemental Authority, that is, through the filing of a motion to dismiss by Respondents with a reasonable schedule for response and reply, as agreed to by the parties or otherwise established by the Court.

Finally, if the Court declines to vacate its Show Cause Orders under either of these alternative proposals, Petitioners respectfully request that the Court grant a 30-day extension of its briefing schedule, to permit the parties adequate time to address this very significant legal issue. Again, the parties have conferred, and Respondents do not object to a reasonable extension of this deadline.

#### **RELIEF REQUESTED**

For all of these reasons, Petitioners respectfully request that the Court:

- (i) vacate its Orders to Show Cause in all of the above-captioned cases; or
- (ii) vacate its Orders to Show Cause in all of the above-captioned cases and defer consideration of the Act's impact on its jurisdiction until Respondents file their motion to dismiss or for other relief; or
- (iii) modify its Orders to Show Cause in all of the above-captioned cases by extending the deadlines for the parties' submissions by 30-days.

In light of the immediate briefing schedule in the Show Cause Orders, Petitioners respectfully request that the Court consider this motion as expeditiously as possible. To that end, if it would be helpful to the Court, counsel can be available for an immediate status conference.



Dated: January 6, 2006  
New York, NY

Respectfully submitted,

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# EXHIBIT

## A

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 05-5062**

**September Term, 2005**

04cv01142  
04cv01166

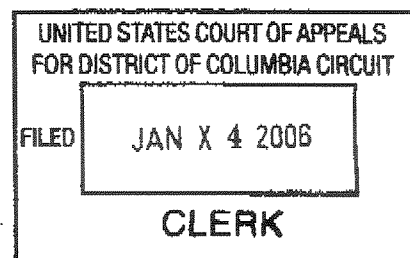
**Filed On:**

Lakhdar Bourmediene, Detainee, Camp Delta, et al.,  
Appellants

v.

George W. Bush, President of the United States, et  
al.,  
Appellees

Consolidated with 05-5063



**05-5064**

02cv00299  
02cv00828  
02cv01130  
04cv01135  
04cv01136  
04cv01137  
04cv01144  
04cv01164  
04cv01194  
04cv01227  
04cv01254

Khaled A. F. Al Odah, Next Friend of Fawzi Khalid  
Abdullah Fahad Al Odah, et al.,  
Appellants

v.

United States of America, et al.,  
Appellees

Consolidated with 05-5095, 05-5096, 05-5097, 05-5098, 05-5099, 05-5100,  
05-5101, 05-5102, 05-5103, 05-5104, 05-5105, 05-5106, 05-5107, 05-5108,  
05-5109, 05-5110, 05-5111, 05-5112, 05-5113, 05-5114, 05-5115, 05-5116



**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 05-5062**

**September Term, 2005**

**BEFORE:** Sentelle, Randolph, and Rogers; Circuit Judges

**ORDER**

It is **ORDERED** by the Court, on its own motion, that the parties file, within 14 days of the date of this order, supplemental briefs of no more than 15-pages addressing the effect of section 1005 of the Department of Defense Appropriations Act of 2006, Pub. L. No. 109-\_\_, §1005 (signed by the President on December 30, 2005) on these appeals.

**Per Curiam**

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY:   
Deputy Clerk

# EXHIBIT B



U.S. Department of Justice  
Civil Division, Appellate Staff  
950 Pennsylvania Ave., N.W., Rm. 7513  
Washington, D.C. 20530-0001

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Tel: (202) 514-3602  
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January 3, 2006

Mr. Mark Langer  
Clerk, U.S. Court of Appeals for the D.C. Circuit  
333 Constitution Ave., N.W.  
Washington, D.C. 20001

Re: *Al Odah v. United States*, Nos. 05-5064, 05-5095 through 05-5116  
*Boumediene v. Bush*, Nos. 05-5062, 05-5063  
Oral argument held on September 8, 2005

Dear Mr. Langer:

Pursuant to Rule 28(j) of the Federal Rules of Appellate Procedure, appellants, the United States, *et al.*, in *Al Odah*, and appellees, Bush, *et al.*, in *Boumediene*, write to inform this Court of the enactment of section 1005 of the Department of Defense Appropriations Act of 2006, Pub. L. No. 109-\_\_\_, § 1005 (signed by President Bush on Dec. 30, 2005) (copy attached), also known as the Detainee Treatment Act of 2005.

Section 1005(e)(1) of the Detainee Treatment Act of 2005 amends the habeas statute, 28 U.S.C. § 2241, to state that “no court, justice, or judge shall have jurisdiction to hear or consider” any habeas claim filed by an alien detainee held by the Department of Defense at Guantanamo Bay. It further bars jurisdiction over “any other action against the United States or its agents relating to any aspect of the detention,” if the detainee is currently in military custody or has been determined to an enemy combatant (after review by the D.C. Circuit). Section 1005 provides in subsection (e)(2) for “exclusive” jurisdiction in the D.C. Circuit to review the validity of final enemy combatant determinations of the Combatant Status Review Tribunal (CSRT), and in subsection (e)(3) grants the D.C. Circuit “exclusive” jurisdiction over the final decisions of any military commission rulings “rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).” The exclusive jurisdiction of the D.C. Circuit over all CSRT rulings and military commission decisions applies to all pending cases, § 1005(h)(2). The statute, including its elimination of statutory habeas jurisdiction, is effective immediately, § 1005(h)(1).

The Government anticipates filing with the Court no later than the week of January 9, 2006, a motion to govern further proceedings in these cases in light of the new legislation.

Respectfully submitted,

Robert M. Loeb  
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H. R. 2863

# One Hundred Ninth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,  
the fourth day of January, two thousand and five*

## An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

### DIVISION A

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:

#### TITLE I

##### MILITARY PERSONNEL

##### MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$28,191,287,000.

##### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$22,788,101,000.

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(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term “cruel, inhuman, or degrading treatment or punishment” means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

**SEC. 1004. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AUTHORIZED INTERROGATIONS.**

(a) PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.—In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent’s engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, employee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) COUNSEL.—The United States Government may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (a), with respect to any civil action or criminal prosecution arising out of practices described in that subsection, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10, United States Code.

**SEC. 1005. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.**

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are

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in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the “Designated Civilian Official”) shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any detainee under such procedures, shall, to the extent practicable, assess—

(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

(B) the probative value (if any) of any such statement.

(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

(d) ANNUAL REPORT.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

(A) The number of detainees whose status was reviewed.

(B) The procedures used at each location.

(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

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(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

“(e) Except as provided in section 1005 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider—

“(1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or

“(2) any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of an alien at Guantanamo Bay, Cuba, who—

“(A) is currently in military custody; or

“(B) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with the procedures set forth in section 1005(e) of the Detainee Treatment Act of 2005 to have been properly detained as an enemy combatant.”.

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor of the Government's evidence); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the

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release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision was consistent with the standards and procedures specified in the military order referred to in subparagraph (A); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach the final decision is consistent with the Constitution and laws of the United States.

(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

(g) UNITED STATES DEFINED.—For purposes of this section, the term “United States”, when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection



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(e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

**SEC. 1006. TRAINING OF IRAQI FORCES REGARDING TREATMENT OF DETAINEES.**

**(a) REQUIRED POLICIES.—**

(1) **IN GENERAL.**—The Secretary of Defense shall ensure that policies are prescribed regarding procedures for military and civilian personnel of the Department of Defense and contractor personnel of the Department of Defense in Iraq that are intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, ensure that all personnel of Iraqi military forces who are trained by Department of Defense personnel and contractor personnel of the Department of Defense receive training regarding the international obligations and laws applicable to the humane detention of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

(2) **ACKNOWLEDGMENT OF TRAINING.**—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment of such training having been provided.

(3) **DEADLINE FOR POLICIES TO BE PRESCRIBED.**—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act.

**(b) ARMY FIELD MANUAL.—**

(1) **TRANSLATION.**—The Secretary of Defense shall provide for the United States Army Field Manual on Intelligence Interrogation to be translated into arabic and any other language the Secretary determines appropriate for use by members of the Iraqi military forces.

(2) **DISTRIBUTION.**—The Secretary of Defense shall provide for such manual, as translated, to be provided to each unit of the Iraqi military forces trained by Department of Defense personnel or contractor personnel of the Department of Defense.

(c) **TRANSMITTAL OF REGULATIONS.**—Not less than 30 days after the date on which regulations, policies, and orders are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

(d) **ANNUAL REPORT.**—Not less than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

This division may be cited as the “Department of Defense Appropriations Act, 2006”.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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**ISSAM HAMID ALI BIN ALI AL JAYFI, *et al.*,**

**Petitioners/Plaintiffs,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

**Case No. 1:05-CV-02104 (RBW)**

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**ABDUL HALEEM**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, President of the United States,  
et al.**

**Respondents/Defendants.**

**Case No. 05-2376(RBW)**

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**ABDUL-HADI MUHAMMAD AL SIBA'I, by and  
through his next friend, ABDULLAH MUHAMMAD  
AL-SIBA'I,**

**Petitioners,**

**v.**

**GEORGE W. BUSH, DONALD RUMSFELD,  
ARMY BRIG. GEN. JAY HOOD, and ARMY COL.  
MIKE BUMGARNER,**

**Respondents.**

**Case No. 1:05-CV-01667 (RBW)**

**ELHAM BATTAYAV,**

**Petitioner/Plaintiff,**

V.

**GEORGE W. BUSH, *et. al.*,**

### Respondents/Defendants.

**Case No. 05-CV-00714 (RBW)**

AL MURBATI, *et al.*,

**Petitioners/Plaintiffs,**

V.

**GEORGE W. BUSH, *et. al.*,**

### Respondents/Defendants.

Case No. 04-CV-1227 (RBW)

NASRULLAH,

**Petitioner/Plaintiff,**

V.

GEORGE W. BUSH, *et. al.*,

### Respondents/Defendants.

**Case No. 1:05-CV-00891 (RBW)**



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**MOHAMMED AMON,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 05-CV-1493 (RBW)**

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**TAJ MOHAMMAD,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 05-CV-0879 (RBW)**

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**KARIN BOSTAN,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 05-CV-883 (RBW)**

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**AMEEN MOHAMMAD ALBKRI, *et al.*,**

**Petitioners/Plaintiffs,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 05-CV-1639 (RBW)**

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**GHEREBI,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 04-CV-1164 (RBW)**

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**ASIM BEN THABIT AL-KHALAQI,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 05-CV-999 (RBW)**

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**KHANDAN**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 05-CV-1697 (RBW)**

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**JAMOLIVICH,**

**Petitioner/Plaintiff,**

**v.**

**GEORGE W. BUSH, *et. al.*,**

**Respondents/Defendants.**

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**Case No. 05-CV-2112 (RBW)**

**(PROPOSED) ORDER**

Having considered Petitioners' Motion to Vacate this Court's January 4, 2006 Orders to Show Cause, the entire record, and in light of recent developments in both the U.S. Supreme Court and the D.C. Circuit Court of Appeals, it is hereby:

**ORDERED** that the Court's January 4, 2006 Orders to Show Cause, concerning briefing of the Department of Defense Appropriations Act of 2006's impact on its jurisdiction, are hereby **VACATED** in all of the above captioned cases.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
REGGIE B. WALTON  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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ISSAM HAMID ALI BIN ALI AL JAYFI, *et al.*,

Petitioners/Plaintiffs,

v.

GEORGE W. BUSH, *et. al.*,

Respondents/Defendants.

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DECLARATION OF SERVICE

Michelle Kass hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that:

I am a paralegal at Hunton & Williams LLP, attorneys for Petitioners Issam Hamid Ali Bin Ali Jayfi, et al.

That on January 6, 2006, I served a true copy of Petitioners' Consolidated Motion to Vacate January 4, 2006 Orders to Show Cause on all parties via the Court's ECF System, and on all parties who did not receive these court filings via the Court's ECF system, by depositing same in a duly enclosed and sealed wrapper, with the correct postage thereon, in an official letter box duly maintained by the Government of the United States of America within the State of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Executed January 6, 2006.



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Michelle Kass